

United States securities, so far as applicable and as necessarily modified to relate to consolidated Federal Home Loan Bank bonds, are hereby adopted as the regulations of the Board for the issuance of substitute consolidated Federal Home Loan Bank bonds or the payment of lost, stolen, destroyed, mutilated, or defaced consolidated Federal Home Loan Bank bonds.

[23 FR 9878, Dec. 23, 1958. Redesignated at 54 FR 36759, Sept. 5, 1989]

#### **§910.5 Administrative provision.**

The Secretary of the Treasury, or the Acting Secretary of the Treasury, is hereby authorized and empowered, as the agent of the Board and the Federal Home Loan Banks, to administer the regulations of the Board adopted by §§910.3 and 910.4, and to delegate such authority at his discretion to other officers, employees, and agents of the United States Treasury Department. Any such regulations may be waived on behalf of the Board and the Federal Home Loan Banks by the Secretary of the Treasury or the Acting Secretary of the Treasury or by an officer of the United States Treasury Department authorized to waive similar regulations with respect to United States securities, but only in any particular case in which a similar regulation, with respect to United States Securities would be waived. The terms "securities" and "bonds" as used in this section shall, unless the context otherwise requires, include and apply to coupons and interim certificates.

[23 FR 9878, Dec. 23, 1958. Redesignated at 54 FR 36759, Sept. 5, 1989, and amended at 55 FR 2229, Jan. 23, 1990]

#### **§910.6 Reservation of right to revoke or amend; limitations thereon.**

(a) *General.* The right to revoke or amend this part, or to prescribe and issue supplemental or amendatory rules and regulations thereto, is hereby reserved.

(b) *Limitation on amendment of leverage limit or negative pledge requirement.* No revocation or relaxation of any of the restrictions or requirements contained in or imposed by §910.1 (b) or (c) shall be effected except:

(1) If there are no senior bonds then outstanding or if there shall have been

deposited with the Treasurer of the United States, noncallable (or called) direct obligations of the United States of America or obligations fully guaranteed by the United States of America of such maturities or redemption dates and interest payment dates, and to bear such interest, as will be sufficient to pay in full (together with any other moneys placed in trust and irrevocably committed for such payment and without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom) the principal of and interest to date of maturity or to such date designated for redemption and any redemption premium on all senior bonds the holders of which have not consented to such revocation or relaxation; or

(2) Section 910.1(b) may be changed by the Board in any manner if the Board receives either:

(i) Written evidence from at least one major nationally recognized securities rating agency which rates or makes an assessment of the senior bonds that such change in that provision will not result in the lowering of its then-current rating or assessment on senior bonds outstanding or next to be issued; or

(ii) A written opinion from an investment banking firm that such change would not have a materially adverse effect on the creditworthiness of senior bonds outstanding or next to be issued.

[57 FR 62186, Dec. 30, 1992]

### **PART 912—BOOK-ENTRY PROCEDURE FOR Federal HOME LOAN BANK SECURITIES**

Sec.

912.1 Definitions.

912.2 Law governing rights and obligations of Federal Home Loan Banks, Finance Board, Office of Finance, United States and Federal Reserve Banks; rights of any Person against Federal Home Loan Banks, Finance Board, Office of Finance, United States and Federal Reserve Banks.

912.3 Law governing other interests.

912.4 Creation of Participant's Security Entitlement; security interests.

912.5 Obligations of Federal Home Loan Banks and the Office of Finance; no Adverse Claims.

## § 912.1

## 12 CFR Ch. IX (1–1–99 Edition)

- 912.6 Authority of Federal Reserve Banks.  
912.7 Liability of Federal Home Loan Banks, Finance Board, Office of Finance and Federal Reserve Banks.  
912.8 Additional requirements; notice of attachment for Book-entry Federal Home Loan Bank Securities.  
912.9 Reference to certain Department of Treasury commentary and determinations.  
912.10 Obligations of United States with respect to Federal Home Loan Bank Securities.

AUTHORITY: 12 U.S.C. 1422a, 1422b, 1431, 1435.

SOURCE: 63 FR 8059, Feb. 18, 1998, unless otherwise noted.

### § 912.1 Definitions.

For purposes of this part, unless the context otherwise requires or indicates:

(a) *Adverse Claim* means a claim that a claimant has a property interest in a Book-entry Federal Home Loan Bank Security and that it is a violation of the rights of the claimant for another Person to hold, transfer, or deal with the Security.

(b) *Book-entry Federal Home Loan Bank Security* means a Federal Home Loan Bank Security maintained in the book-entry system of the Federal Reserve Banks.

(c) *Entitlement Holder* means a Person or a Federal Home Loan Bank to whose account an interest in a Book-entry Federal Home Loan Bank Security is credited on the records of a Securities Intermediary.

(d) *Federal Home Loan Bank Security* means a consolidated bond, debenture, note, or other obligation of the Federal Home Loan Bank issued by the Finance Board under authority of section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431).

(e) *Federal Reserve Bank* means a Federal Reserve Bank or branch, acting as fiscal agent for the Office of Finance, unless otherwise indicated.

(f) *Federal Reserve Bank Operating Circular* means the publication issued by each Federal Reserve Bank that sets forth the terms and conditions under which the Federal Reserve Bank maintains Book-entry Securities accounts and transfers Book-entry Securities.

(g) *Finance Board* means the Federal Housing Finance Board.

(h) *Funds account* means a reserve and/or clearing account at a Federal Reserve Bank to which debits or credits are posted for transfers against payment, Book-entry Securities transaction fees, or principal and interest payments.

(i) *Office of Finance* means the Office of Finance established under part 941 of this chapter, acting as agent of the Finance Board in all matters relating to the issuance of Book-entry Federal Home Loan Bank Securities, or as agent of the Federal Home Loan Banks in the performance of all other necessary and proper functions relating to Book-entry Federal Home Loan Bank Securities, including the payment of principal and interest due thereon.

(j) *Participant* means a Person or a Federal Home Loan Bank that maintains a Participant's Securities Account with a Federal Reserve Bank.

(k) *Participant's Securities Account* means an account in the name of a Participant at a Federal Reserve Bank to which Book-entry Federal Home Loan Bank Securities held for a Participant are or may be credited.

(l) *Person* means and includes an individual, corporation, company, governmental entity, association, firm, partnership, trust, estate, representative, and any other similar organization, but does not mean or include a Federal Home Loan Bank, the Finance Board, the Office of Finance, the United States, or a Federal Reserve Bank.

(m) *Revised Article 8* means Uniform Commercial Code, Revised Article 8, Investment Securities (with Conforming and Miscellaneous Amendments to Articles 1, 3, 4, 5, 9, and 10) 1994 Official Text. Copies of this publication are available from the Executive Office of the American Law Institute, 4025 Chestnut Street, Philadelphia, PA 19104, and the National Conference of Commissioners on Uniform State Laws, 676 North St. Clair Street, Suite 1700, Chicago, IL 60611.

(n) *Securities Intermediary* means:

(1) A Person that is registered as a "clearing agency" under the Federal securities laws; a Federal Reserve Bank; any other person that provides clearance or settlement services with respect to a Book-entry Federal Home Loan Bank Security that would require

## Federal Housing Finance Board

## § 912.3

it to register as a clearing agency under the Federal securities laws but for an exclusion or exemption from the registration requirement, its activities as a clearing corporation, including promulgation of rules, are subject to regulation by a Federal or State governmental authority; or

(2) A Person (other than an individual, unless such individual is registered as a broker or dealer under the Federal securities laws) including a bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity.

(o) *Security Entitlement* means the rights and property interest of an Entitlement Holder with respect to a Book-entry Federal Home Loan Bank Security.

(p) *State* means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, or any other territory or possession of the United States.

(q) *Transfer Message* means an instruction of a Participant to a Federal Reserve Bank to effect a transfer of a Book-entry Federal Home Loan Bank Security, as set forth in Federal Reserve Bank Operating Circulars.

### **§912.2 Law governing rights and obligations of Federal Home Loan Banks, Finance Board, Office of Finance, United States and Federal Reserve Banks; rights of any Person against Federal Home Loan Banks, Finance Board, Office of Finance, United States and Federal Reserve Banks.**

(a) Except as provided in paragraph (b) of this section, the rights and obligations of the Federal Home Loan Banks, the Finance Board, the Office of Finance, the United States and the Federal Reserve Banks with respect to: A Book-entry Federal Home Loan Bank Security or Security Entitlement and the operation of the Book-entry system, as it applies to Federal Home Loan Bank Securities; and the rights of any Person, including a Participant, against the Federal Home Loan Banks, the Finance Board, the Office of Finance, the United States and the Federal Reserve Banks with respect to: A Book-entry Federal Home Loan Bank Security or Security Entitlement and

the operation of the Book-entry system, as it applies to Federal Home Loan Bank Securities; are governed solely by regulations of the Finance Board, including the regulations of this part 912, the applicable offering notice, applicable procedures established by the Office of Finance, and Federal Reserve Bank Operating Circulars.

(b) A security interest in a Security Entitlement that is in favor of a Federal Reserve Bank from a Participant and that is not recorded on the books of a Federal Reserve Bank pursuant to §912.4(c)(1), is governed by the law (not including the conflict-of-law rules) of the jurisdiction where the head office of the Federal Reserve Bank maintaining the Participant's Securities Account is located. A security interest in a Security Entitlement that is in favor of a Federal Reserve Bank from a Person that is not a Participant, and that is not recorded on the books of a Federal Reserve Bank pursuant to §912.4(c)(1), is governed by the law determined in the manner specified in §912.3.

(c) If the jurisdiction specified in the first sentence of paragraph (b) of this section is a State that has not adopted Revised Article 8, then the law specified in the first sentence of paragraph (b) of this section shall be the law of that State as though Revised Article 8 had been adopted by that State.

### **§912.3 Law governing other interests.**

(a) To the extent not inconsistent with this part 912, the law (not including the conflict-of-law rules) of a Securities Intermediary's jurisdiction governs:

(1) The acquisition of a Security Entitlement from the Securities Intermediary;

(2) The rights and duties of the Securities Intermediary and Entitlement Holder arising out of a Security Entitlement;

(3) Whether the Securities Intermediary owes any duties to an adverse claimant to a Security Entitlement;

(4) Whether an Adverse Claim can be asserted against a Person who acquires a Security Entitlement from the Securities Intermediary or a Person who purchases a Security Entitlement or

interest therein from an Entitlement Holder; and

(5) Except as otherwise provided in paragraph (c) of this section, the perfection, effect of perfection or non-perfection, and priority of a security interest in a Security Entitlement.

(b) The following rules determine a “Securities Intermediary’s jurisdiction” for purposes of this section:

(1) If an agreement between the Securities Intermediary and its Entitlement Holder specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the Securities Intermediary’s jurisdiction.

(2) If an agreement between the Securities Intermediary and its Entitlement Holder does not specify the governing law as provided in paragraph (b)(1) of this section, but expressly specifies that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the Securities Intermediary’s jurisdiction.

(3) If an agreement between the Securities Intermediary and its Entitlement Holder does not specify a jurisdiction as provided in paragraph (b)(1) or (b)(2) of this section, the Securities Intermediary’s jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the Entitlement Holder’s account.

(4) If an agreement between the Securities Intermediary and its Entitlement Holder does not specify a jurisdiction as provided in paragraph (b)(1) or (b)(2) of this section and an account statement does not identify an office serving the Entitlement Holder’s account as provided in paragraph (b)(3) of this section, the Securities Intermediary’s jurisdiction is the jurisdiction in which is located the chief executive office of the Securities Intermediary.

(c) Notwithstanding the general rule in paragraph (a)(5) of this section, the law (but not the conflict-of-law rules) of the jurisdiction in which the Person creating a security interest is located governs whether and how the security interest may be perfected automatically or by filing a financing statement.

(d) If the jurisdiction specified in paragraph (b) of this section is a State

that has not adopted Revised Article 8, then the law for the matters specified in paragraph (a) of this section shall be the law of that State as though Revised Article 8 had been adopted by that State. For purposes of the application of the matters specified in paragraph (a) of this section, the Federal Reserve Bank maintaining the Securities Account is a clearing corporation, and the Participant’s interest in a Federal Home Loan Bank Book-entry Security is a Security Entitlement.

**§912.4 Creation of Participant’s Security Entitlement; security interests.**

(a) A Participant’s Security Entitlement is created when a Federal Reserve Bank indicates by book entry that a Book-entry Federal Home Loan Bank Security has been credited to a Participant’s Securities Account.

(b) A security interest in a Security Entitlement of a Participant in favor of the United States to secure deposits of public money, including, without limitation, deposits to the Treasury tax and loan accounts, or other security interest in favor of the United States that is required by Federal statute, regulation, or agreement, and that is marked on the books of a Federal Reserve Bank is thereby effected and perfected, and has priority over any other interest in the Securities. Where a security interest in favor of the United States in a Security Entitlement of a Participant is marked on the books of a Federal Reserve Bank, such Federal Reserve Bank may rely, and is protected in relying, exclusively on the order of an authorized representative of the United States directing the transfer of the Security. For purposes of this paragraph (b), an “authorized representative of the United States” is the official designated in the applicable regulations or agreement to which a Federal Reserve Bank is a party, governing the security interest.

(c)(1) The Federal Home Loan Banks, the Finance Board, the Office of Finance, the United States and the Federal Reserve Banks have no obligation to agree to act on behalf of any Person or to recognize the interest of any transferee of a security interest or other limited interest in a Security Entitlement in favor of any Person except

to the extent of any specific requirement of Federal law or regulation or to the extent set forth in any specific agreement with the Federal Reserve Bank on whose books the interest of the Participant is recorded. To the extent required by such law or regulation or set forth in an agreement with a Federal Reserve Bank, or the Federal Reserve Bank Operating Circular, a security interest in a Security Entitlement that is in favor of a Federal Reserve Bank or a Person may be created and perfected by a Federal Reserve Bank marking its books to record the security interest. Except as provided in paragraph (b) of this section, a security interest in a Security Entitlement marked on the books of a Federal Reserve Bank shall have priority over any other interest in the Securities.

(2) In addition to the method provided in paragraph (c)(1) of this section, a security interest in a Security Entitlement, including a security interest in favor of a Federal Reserve Bank, may be perfected by any method by which a security interest may be perfected under applicable law as described in § 912.2(b) or § 912.3. The perfection, effect of perfection or non-perfection, and priority of a security interest are governed by that applicable law. A security interest in favor of a Federal Reserve Bank shall be treated as a security interest in favor of a clearing corporation in all respects under that law, including with respect to the effect of perfection and priority of the security interest. A Federal Reserve Bank Operating Circular shall be treated as a rule adopted by a clearing corporation for such purposes.

**§ 912.5 Obligations of the Federal Home Loan Banks and the Office of Finance; no Adverse Claims.**

(a) Except in the case of a security interest in favor of the United States or a Federal Reserve Bank or otherwise as provided in § 912.4(c)(1), for the purposes of this part 912, the Federal Home Loan Banks, the Office of Finance and the Federal Reserve Banks shall treat the Participant to whose Securities Account an interest in a Book-entry Federal Home Loan Bank Security has been credited as the person exclusively entitled to issue a

Transfer Message, to receive interest and other payments with respect thereof and otherwise to exercise all the rights and powers with respect to the Security, notwithstanding any information or notice to the contrary. Neither the Federal Home Loan Banks, the Finance Board, the Office of Finance, the United States, nor the Federal Reserve Banks are liable to a Person asserting or having an Adverse Claim to a Security Entitlement or to a Book-entry Federal Home Loan Bank Security in a Participant's Securities Account, including any such claim arising as a result of the transfer or disposition of a Book-entry Federal Home Loan Bank Security by a Federal Reserve Bank pursuant to a Transfer Message that the Federal Reserve Bank reasonably believes to be genuine.

(b) The obligation of the Federal Home Loan Banks and the Office of Finance to make payments of interest and principal with respect to Book-entry Federal Home Loan Bank Securities is discharged at the time payment in the appropriate amount is made as follows:

(1) Interest on Book-entry Federal Home Loan Bank Securities is either credited by a Federal Reserve Bank to a Funds Account maintained at the Federal Reserve Bank or otherwise paid as directed by the Participant.

(2) Book-entry Federal Home Loan Bank Securities are paid, either at maturity or upon redemption, in accordance with their terms by a Federal Reserve Bank withdrawing the securities from the Participant's Securities Account in which they are maintained and by either crediting the amount of the proceeds, including both principal and interest, where applicable, to a Funds Account at the Federal Reserve Bank or otherwise paying such principal and interest as directed by the Participant. No action by the Participant is required in connection with the payment of a Book-entry Federal Home Loan Bank Security, unless otherwise expressly required.

**§ 912.6 Authority of Federal Reserve Banks.**

(a) Each Federal Reserve Bank is hereby authorized as fiscal agent of the Office of Finance: To perform functions

## § 912.7

with respect to the issuance of Book-entry Federal Home Loan Bank Securities, in accordance with the terms of the applicable offering notice and with procedures established by the Office of Finance; to service and maintain Book-entry Federal Home Loan Bank Securities in accounts established for such purposes; to make payments of principal, interest and redemption premium (if any), as directed by the Office of Finance; to effect transfer of Book-entry Federal Home Loan Bank Securities between Participants' Securities Accounts as directed by the Participants; and to perform such other duties as fiscal agent as may be requested by the Office of Finance.

(b) Each Federal Reserve Bank may issue Operating Circulars not inconsistent with this part 912, governing the details of its handling of Book-entry Federal Home Loan Bank Securities, Security Entitlements, and the operation of the Book-entry system under this part 912.

### **§ 912.7 Liability of Federal Home Loan Banks, Finance Board, Office of Finance and Federal Reserve Banks.**

The Federal Home Loan Banks, the Finance Board, the Office of Finance and the Federal Reserve Banks may rely on the information provided in a tender, transaction request form, other transaction documentation, or Transfer Message, and are not required to verify the information. Neither the Federal Home Loan Banks, the Finance Board, the Office of Finance, the United States, nor the Federal Reserve Banks shall be liable for any action taken in accordance with the information set out in a tender, transaction request form, other transaction documentation, or Transfer Message, or evidence submitted in support thereof.

### **§ 912.8 Additional requirements; notice of attachment for Book-entry Federal Home Loan Bank Securities.**

(a) *Additional requirements.* In any case or any class of cases arising under the regulations in this part 912, the Office of Finance may require such additional evidence and a bond of indemnity, with or without surety, as may in its judgment, or in the judgment of the Federal Home Loan Banks or the Fi-

## 12 CFR Ch. IX (1–1–99 Edition)

nance Board, be necessary for the protection of the interests of the Federal Home Loan Banks, the Finance Board, the Office of Finance or the United States.

(b) *Notice of attachment.* The interest of a debtor in a Security Entitlement may be reached by a creditor only by legal process upon the Securities Intermediary with whom the debtor's securities account is maintained, except where a Security Entitlement is maintained in the name of a secured party, in which case the debtor's interest may be reached by legal process upon the secured party. The regulations in this part 912 do not purport to establish whether a Federal Reserve Bank is required to honor an order or other notice of attachment in any particular case or class of cases.

### **§ 912.9 Reference to certain Department of Treasury commentary and determinations.**

(a) The Department of Treasury TRADES Commentary (31 CFR part 357, appendix B) addressing the Department of Treasury regulations governing book-entry procedure for Treasury Securities is hereby referenced, so far as applicable and as necessarily modified to relate to Book-entry Federal Home Loan Bank Securities, as an interpretive aid to this part 912.

(b) Determinations of the Department of Treasury regarding whether a State shall be considered to have adopted Revised Article 8 for purposes of 31 CFR part 357, as published in the FEDERAL REGISTER or otherwise, shall also apply to this part 912.

### **§ 912.10 Obligations of United States with respect to Federal Home Loan Bank Securities.**

Federal Home Loan Bank Securities are not obligations of the United States and are not guaranteed by the United States.

## **PART 914—HEARINGS [RESERVED]**

## **PART 916—PROMULGATION OF REGULATIONS AND AMENDMENTS [RESERVED]**

## **PART 918—IMPLEMENTATION OF**